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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HENRY PLATSKY,

Plaintiff,

-v-

FEDERAL BUREAU OF INVESTIGATION,

Defendant.

20 Civ. 573 (LLS)

AMENDED ANSWER

Defendant the Federal Bureau of Investigation (“FBI” or “Defendant”), by its attorney, Geoffrey S. Berman, United States Attorney for the Southern District of New York, hereby answers the Complaint under the Freedom of Information Act (“FOIA”) of Plaintiff Henry Platsky (“Plaintiff”) upon information and belief as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first two sentences of Paragraph 1 of the Complaint. Admits that the FBI has law enforcement responsibilities and is an organization within the United States Department of Justice, and respectfully refers the Court to the relevant statutes and regulations for a complete and accurate description of the FBI’s responsibilities. Admits that the FBI’s headquarters are located at 935 Pennsylvania Avenue NW, Washington, D.C. 20530.

2. Paragraph 2 of the Complaint consists of legal conclusions regarding jurisdiction, to which no response is required.

3. Paragraph 3 of the Complaint consists of Plaintiff's characterization of his FOIA request and subsequent correspondence relating to his FOIA request, to which no response is required. To the extent a response is deemed required, the FBI admits and avers that (1) Plaintiff submitted a FOIA request to the FBI that is dated July 17, 2018 (2) Plaintiff sent a letter to the FBI dated October 7, 2018, a copy of which is attached to the Complaint, (3) the FBI issued a response to Plaintiff's FOIA request on October 31, 2018, a copy of which is attached to the Complaint, (4) Plaintiff appealed that response in a letter bearing the date January 15, 2018, a copy of which is attached to the Complaint, and (5) the FBI denied Plaintiff's appeal in a letter sent on August 2, 2019, a copy of which is attached to the Complaint. The FBI respectfully refers the Court to the referenced correspondence for its true and complete contents, and denies any allegation that is inconsistent with that correspondence.

4. Paragraph 4 of the Complaint consists of Plaintiff's characterization of his January 15, 2019 appeal of the FBI's response to Plaintiff's FOIA request, and the FBI's response to Plaintiff's appeal, to which no response is required. To the extent a response is deemed required, FBI respectfully refers the Court to the referenced correspondence for its true and complete contents, and denies any allegation that is inconsistent with that correspondence. The remainder of paragraph 4 consists of legal argument, to which no response is required.

5. The allegations in Paragraph 5 of the Complaint are related to Plaintiff's due process claim, which has been dismissed, *see* Dkt. No. 4, or constitutes legal argument, and therefore no response is required.

6. The allegations in Paragraph 6 of the Complaint are related to Plaintiff's due process claim which has been dismissed, *see* Dkt. No. 4, and therefore no response is required.

7. The allegations contained in the first paragraph of Paragraph 7 of the Complaint are related to Plaintiff's due process claim which have been dismissed, *see* Dkt. No. 4, and therefore no response is required. The remaining paragraphs of Paragraph 7 consists of Plaintiff's request for relief, to which no response is required. To the extent a response is deemed required, the FBI denies that Plaintiff is entitled to the relief it seeks or to any relief.

DEFENSES

FIRST DEFENSE

Plaintiff's Complaint should be dismissed in whole or in part for failure to state a claim upon which relief may be granted.

SECOND DEFENSE

The Court lacks subject matter jurisdiction over Plaintiff's requests for relief that exceed the relief authorized under FOIA, 5 U.S.C. § 552.

THIRD DEFENSE

Plaintiff is not entitled to declaratory relief. *See* 5 U.S.C. § 552(a)(4)(B).

The FBI may have additional defenses which are not known at this time but which may become known through further proceedings. Accordingly, the FBI reserves the right to assert each and every affirmative or other defense that may be available, including any defenses available pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure.

WHEREFORE the FBI respectfully requests that the Court: (1) dismiss the Complaint with prejudice; (2) enter judgment in favor of the FBI; and (3) grant such further relief as the Court deems just and proper.

Dated: June 19, 2020
New York, New York

Respectfully submitted,

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